

**REMARKS**

This responds to the Restriction Requirement dated November 14, 2006.

Claims 18, 32, and 74 are currently amended to correct editorial errors.

Claims 1-78 remain pending in the application.

**Provisional Election**

In response to the Restriction Requirement, Applicant provisionally elects, with traverse, to prosecute claims of Species 3, identified by the Examiner as "Figures 6-8." Applicant believes that claims 18-32, 36, 37, 56-72, and 75-78 read on Species 3, and are therefore provisionally elected for prosecution.

**Traversal of the Restriction Requirement**

The Restriction Requirement requires restriction to one of Species 1 (Figures 1-3), Species 2 (Figures 4-5), and Species 3 (Figures 6-8).

Applicant respectfully traverses the restriction requirement with respect to Species 2 and 3 on the basis that these species have a disclosed relationship. The Restriction Requirement distinguishes Species 2 and 3 by figures. However, both species 2 and 3 relate to controlling delivery of a specific type of drug ("a drug shifting a source of metabolically synthesized energy for cardiac contractions from fatty acid to glucose") from an implantable drug delivery device using a metabolic signal sensed by an implantable sensor. Applicant respectfully submits that due to this disclosed relationship, Species 2 and 3 can be efficiently and effectively searched in a single search with no additional burden placed on the Examiner.

The Restriction Requirement states: "Currently, no claims are considered generic." Applicant respectfully traverses this statement and submits that at least claims 18 and 56 are generic to Species 2 and 3.

Applicant respectfully requests withdrawal of the restriction requirement with respect to Species 2 and 3, thereby allowing claims 1-37 and 56-78 to be elected for prosecution.

**RESPONSE TO RESTRICTION REQUIREMENT**

Serial Number: 10/645,823

Filing Date: August 21, 2003

Title: METHOD AND APPARATUS FOR MODULATING CELLULAR METABOLISM DURING POST-ISCHEMIA OR HEART FAILURE

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Dkt: 279.606US1

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6965 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

JOSEPH M. PASTORE ET AL.


By their Representatives,

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Date

12-12-2006

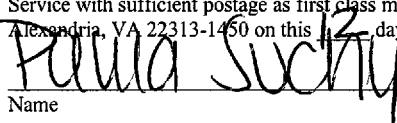
By

  
Zhengnian Tang

Reg. No. 55,666

**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 12 day of December 2006.

Name

  
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Signature

  
Paula Suchy